

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re J.P. et al., Persons Coming Under
the Juvenile Court Law.

STANISLAUS COUNTY
COMMUNITY SERVICES AGENCY,

Plaintiff and Respondent,

v.

VICKIE S.,

Defendant and Appellant.

F064076

(Super. Ct. Nos. 515736, 515737)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Stanislaus County. Ann Q.
Ameral, Judge.

Jesse F. Rodriguez, under appointment by the Court of Appeal, for Defendant and
Appellant.

John P. Doering, County Counsel, and Robin L. McIver, Deputy County Counsel,
for Plaintiff and Respondent.

-ooOoo-

* Before Wiseman, Acting P.J., Levy, J., and Cornell, J.

Vickie S. appeals the juvenile court's order issued at a postpermanency review hearing (Welf. & Inst. Code, § 366.3)¹ denying her request for reinstatement of reunification services as to her 12-year-old son, J.P.² Vickie contends the juvenile court's order was an abuse of discretion. We affirm.

FACTUAL AND PROCEDURAL SUMMARY

Vickie is the mother of two sons, K.C. and J.P., and a daughter, R.Q. The children range in age from 11 to 14; R.Q. being the youngest and K.C. the eldest. The whereabouts of the fathers of J.P. and R.Q. were unknown throughout the dependency proceedings under review. K.C.'s father is deceased.

Vickie's involvement with the Stanislaus County Community Services Agency (agency) began in earnest in November 2008 after law enforcement responded repeatedly to her home to arrest parolees. Vickie, an admitted methamphetamine user, lived there with then 10-year-old K.C., 9-year-old J.P., and 8-year-old R.Q. Vickie accepted voluntary services, made good progress, and was drug-free for one year. Consequently, the agency closed the case in December 2009. However, Vickie's methamphetamine use and association with parolees and probationers continued. In March 2010, the agency took the children into protective custody and placed them in foster care.

In June 2010, the juvenile court adjudged the children dependents and approved a plan of reunification for Vickie that required her to participate in various services, including substance abuse counseling and random drug testing.

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² We refer to the minors by their first and last initials in this case because one or more have unique names. (Cal. Rules of Court, rule 8.401(a)(2).)

By November 2010, Vickie had not made much progress and was not regularly visiting the children. In addition, the children were no longer placed together. J.P. and R.Q. were having behavioral problems and were moved from the original placement. J.P. was in his fifth placement and showing signs of depression and attention deficit disorder (ADD).

In December 2010, the juvenile court conducted the six-month review hearing and continued Vickie's reunification services to the 12-month review hearing which it set for June 2011.

In February 2011, the juvenile court suspended Vickie's educational rights as to J.P. and assigned them to a court-appointed special advocate (CASA). He was struggling in school and mourning the separation from his mother and siblings.

In its report for the 12-month review hearing, the agency recommended that the juvenile court terminate Vickie's reunification services and set a section 366.26 hearing to establish permanent plans for the children. The agency reported that Vickie had not visited the children since December 2010 and made poor progress in her services plan. The plan at that time was for K.C. and R.Q. to be adopted by their caregivers but there was no specific plan in mind for J.P.

In June 2011, the juvenile court terminated Vickie's reunification services at the 12-month review hearing. Vickie did not appear and her attorney did not know how to contact her. The court set a section 366.26 hearing for K.C. and R.Q. in October 2011 and a section 366.3 hearing as to J.P. in December 2011. The court also ordered group counseling for the children and sibling visitation.

In October 2011, the juvenile court conducted the section 366.26 hearing and ordered K.C. into a planned permanent living arrangement with his caregiver after finding that he was not adoptable. The court found R.Q. adoptable and terminated Vickie's parental rights.

In November 2011, Vickie's attorney filed a section 388 petition on her behalf asking the juvenile court to reinstate her reunification services with J.P. She declared in her petition that her circumstances had changed since the juvenile court terminated her services in that she completed a parenting class, obtained a sponsor and attained 248 days of sobriety. In addition, she was participating in individual counseling and regularly attending Narcotics/Alcoholics Anonymous (NA/AA) meetings. She further declared that an order reinstating reunification services would serve J.P.'s best interests by allowing him a continuing relationship with his mother and furthering a familial bond through visitation with her. Vickie attached various documents to her section 388 petition as supporting evidence. Among the various documents was a letter she wrote explaining that she was depressed, which caused her to miss visits with her children.

The juvenile court set a hearing for December 2011 to coincide with the section 366.3 hearing.

In its report for the December 2011 hearing, the agency recommended that the juvenile court approve a permanent plan of long-term foster care for J.P with his care providers. The agency informed the court that J.P. remained in his fifth placement, was receiving weekly mental health counseling and treatment for behavioral problems in the foster home and at school and was taking medication for ADD and to sleep. He was also receiving education support from the CASA and services for emotionally disturbed students. The agency also informed the juvenile court that J.P. was strongly bonded to Vickie but stated that she manipulated him in her efforts to reunify with him. Consequently, following visitation with her, J.P. became defiant and disrespectful with his care providers and teachers.

The CASA also filed a report for the hearing, informing the juvenile court that J.P. had adjusted well to his foster placement. He expressed satisfaction and contentment there and hoped to stay there for a significant amount of time. He had also made progress

in school. Asked what he wanted the court to know, he said he wanted to visit his siblings.

The juvenile court continued the December 2011 hearing and conducted it in January 2012 as a combined hearing to review J.P.'s permanent plan pursuant to section 366.3 and adjudicate Vickie's section 388 petition. Vickie's trial counsel submitted an offer of proof that if called, Vickie would testify that she had 309 days of sobriety and continued to attend NA/AA and church meetings. Minors' trial counsel submitted an offer of proof that if called, J.P. would testify that he wanted to return to his mother and visit her.

At the conclusion of the hearing, the juvenile court denied Vickie's section 388 petition, ruled that J.P.'s foster care placement was necessary and scheduled another review hearing for April 2012. This appeal ensued.

DISCUSSION

Vickie contends that the juvenile court abused its discretion by denying her request for reinstatement of family reunification services as to J.P. at his section 366.3 review hearing. Specifically, she contends, that the juvenile court should have found under section 366.3, subdivision (f) that reunification was the best alternative for J.P. given her efforts to resolve the problems that required his removal and the absence of a prospective adoptive home or guardian. We find no abuse of discretion.

"The legislative preference is 'for adoption over legal guardianship over long-term foster care.' [Citation.]" (*Sheri T. v. Superior Court* (2008) 166 Cal.App.4th 334, 340-341.) When a child is placed in long-term foster care, section 366.3 requires the juvenile court to review the child's status at least every six months. (§ 366.3, subd. (d).) In reviewing the child's status, subdivision (f) of section 366.3 requires the juvenile court to presume that "continued care is in the best interests of the child, unless the parent ... [proves], by a preponderance of the evidence, that further efforts at reunification are the

best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent”

In denying Vickie’s request for reinstatement of reunification efforts, the juvenile court explained that it believed her request was premature. The court stated:

“I don’t want you to think that I don’t appreciate you stepping up to the plate and working on resolving your issues. Again, I just feel that it is a little bit early, and I encourage you to continue to make all these efforts so your sons can see that you are really working hard and stepping up to the plate for them. And ... I would certainly consider a [section 388 petition] at another time, but I just want to make sure that you are doing everything you need to do, and you are going to continue down that road, because children’s [psyches] are very fragile, and they get their hopes up and dashed, and it is not fair to them. So I want you to understand that I do appreciate the work that you are putting into this for yourself as well as for your sons. And I just need to see a continuing effort, and then I would certainly be willing to consider a new [section 388 petition] at that time.”

We conclude that the juvenile court exercised sound discretion in concluding that reunification with Vickie was not the best alternative for J.P. According to the evidence, J.P. was doing well in foster care. He was better managing his behavior with the structure provided by his foster parents and access to special services at school. Had the juvenile court reinstated reunification efforts, it would have risked reviving J.P.’s hope to reunify and the behavioral problems associated with it at a time when Vickie was still in the early stages of recovery. In our view, the juvenile court properly ruled when it denied her request, but left open the possibility that it would entertain a new request if her efforts continued. Thus, reunification was not J.P.’s best alternative and the juvenile court did not err in denying Vickie’s request.

DISPOSITION

The juvenile court’s orders are affirmed.